Sectt. II-27—80,003—4-1-52.

Home (1952) Department.

RL SERIES.

G.O. NO. 3376

Dated 8. 11. 52

FOR MYSORE STATE

[Despatch Abstract.]

Narayanaswamy, Sri J.- Ex-Subedar-Major SAP Unit, Bellary - Cessation of probation - Restoration - Petition to Govt. - Rejected

Sub: J.Narayanaswamy - Ex. Sub Major, Special Armed Police, III Battalion - Cessation of Probation as Sub Major - Petition to Government for cancellation of the order.

..

R.C.673/A/PR/52

Forwarded with copies of orders petitioned against and a copy of the Defaulter Sheet of the petitioner.

2) A copy of the remarks of the Commandant, Special Armed Police, III Battalion on the petition para-war in his endorsement C.No.241/A/PR/52 dated 15-9-1952 is enclosed.

3) The petitioner was aged 43 and had put in a service of 3 years 6 months and 7 days at the time of cessation of probation.

4) The petitioner was subsequently dismissed from service by the Deputy Inspector-General of Police, Special Armed Police, Madras and his appeal against dismissal is under my consideration.

Office of the
Inspr.-Genl.of Police,
P.B.No.601, Madras-4,
Dated: October '52.

for Inspr.-Genl.of Police.

To

The Secretary to the
Government of Madras,
Home Department. (with enclosures).

35 sheets.

dvn/20.10

OFFICE OF THE SECRETARIAT
BELLARY
1952
SPECIAL ARMED POLICE UNIT

2441/A/PR/52
8/1/52

To

The Secretary to the Government,
Home Department, Fort St. George,
Madras.

Cmg 673/A/PR/52

Sir,

Sub: CESSATION OF PROBATION of Sub.Maj.J.Narayanaswami, III Bn. S.A.P. Unit, Bellary - Appeal dismissed by the Inspector General of Police Madras - Memorial - submitted.

Ref: C.No.211, Genl.51-1 dated 8-2-51 of the D.I.G. of Police, S.A.P. Madras.

Proceedings Fcc.654-A.P.H.51 dated 10-1-52 of the Inspector General of Police, Madras.

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1. The orders passed in the reference cited above are wrong in Principle, against facts and contrary to Statutory rules.

2. The appellant was given 5 charges at the Ist instance by the Deputy Inspector General of Police in his No. Fcc.211 Genl.51-1 dated 8-2-51 (copy enclosed).

3. The appellant submitted his explanation to all the charges on 13.5.51 (copy enclosed).

4. The Deputy Inspector General of Police has passed orders only on 2 charges on 16-6-51 eliminating the rest as irrelevant (copy enclosed).

5. The appellant has submitted his appeal on 18-7-51 to the Inspector General of Police (copy enclosed)

6. The Inspector General of Police has passed orders in his Proceedings Fcc.No.654 A.Pr.51 dated 10-1-52 holding that the Dy.Inspector General's order terminating the probation of the appellant is fully justified, and so the appeal is dismissed (copy enclosed).

7. The Inspector General of Police has based his orders to justify the orders of termination of probation on the following points:-(a) Warning given by the

Inspector General of Police on 2.11.50 for some sweeping adverse remarks, reported against the appellant by the Commandant on 15.9.50. (b) Two Censures awarded to the appellant for some delinquencies relate to the period PRIOR to the appellant's PROMOTION as Subedar-Major, which were held to be valid in order to justify the reversion from the post of Subedar Major though such delinquencies even if they exist have no relation or bearing with the duties and performance of work as Subedar Major.

As regards the warning awarded by the Inspector General of Police on 2.11.50 i.e. (7)(a) the appellant submits that the adverse remarks reported against the appellant xx by the Commandant on 15.9.50 are NOT BASED ON CONCRETE INSTANCES and were NOT COMMUNICATED to the appellant under acknowledgement and ALLOWING HIM an opportunity to REFUTE them, before they were reported to the Inspector General of Police. So the warning ordered by the Inspector General of Police on such SWEEPING REMARKS is not justified and also quite CONTRARY TO RULES on the subject.

Further even after the warning Memo was issued on 2.11.50 (copy enclosed) the appellant requested for particulars on which the report dated 15.9.50 was based (copy enclosed) in order to refute the remarks, but this was not complied with.

In this connection the appellant may point out the remarks of the Inspector General of Police that "If the appellant had not received a reply to his request, it is open to him to have written to higher authorities or to remind the Commandant. He did not do so", is very unkind and unreasonable, because when the Commandant has not replied to the written application of the appellant

(duly acknowledged the receipt of the same) no reminder was considered necessary in as much as the Commandant said that he would refer the matter to the Inspector General of Police from whom the warning was originated and communicated the copy on receipt of orders from him. Since no communication was received it was presumed that it was pending consideration with the authorities, and hence it was considered not necessary to approach the higher authority, when the request remains unanswered. For the infringement of rules by a superior authority, why should a subordinate (appellant) be penalised. Moreover, as a Member belonging to a disciplined force, the appellant cannot rush up to higher authority when the matter is believed pending with the Commandant or the Inspector General of Police.

Even conceding that the warning was warranted, it is against rules for the Commandant and the Deputy Inspector General of Police who are Officers subordinate to the Inspector General of Police, to have reopened the very same subject matter, and proceeded against the appellant for Cessation of his probation as Subedar-Major, when once, the Inspector General of Police himself CLOSED the subject FINALLY with A MERE WARNING.

So this is not only wrong in Principle, but also contrary to rule 4 of M.P.S.S. and M.S.P.S.S. Discipline and Appeal Rules published in Police Gazette dated 14-4-51. As regards the 2 Censures 7(b) of the appellant submits that the Inspector General of Police's conclusion in Sub para 2 of para 3 at page 2 of his Proceedings that (1)"instances of his bad work and unsatisfactory conduct HAVING COME TO NOTICE ONLY AFTER HIS PROMOTION to the rank of Subedar-Major, the 2 Censures had necessarily to be

awarded only after his promotion. Because he was already promoted it does not follow that no action should be taken on these 2 censures" is only surmise and not correct; because, charges for the said delinquencies were issued separately in the beginning in P.Rs (1) 30-50 dated 8-3-50 (2) 269-50 dated 3.1.50 (3) Rc.No.431-C1/50 dated 27-5-50 and (4) C.No.1983-B2/50 dated 17.5.50 etc. and they were subsequently consolidated and revised charges were issued in P.Rs 203/50 (Rc.C1.50) dated 27.7.50 (the charges 1,2 and 3) and 115-50 dated 17.7.50 (Charge 4), which clearly prove that the delinquencies were noticed AND ACTION TAKEN LONG BEFORE THE PROMOTION of the appellant as Subedar-Major from 1.8.50. It can, therefore, be seen without any shadow of doubt that the so called delinquencies in question came to LIGHT for disposal NOT AFTER the promotion to the rank of Subedar Major, butMUCH EARLIER. In view of these facts the Inspector General's conclusion in this regard does not seem tenable.

A kind perusal of the explanations submitted by the appellant to the revised charges in P.Rs. 115 and 203/50, and 89-51 (copies enclosed) will speak how the appellant cannot be blamed of the alleged delinquencies an also why he did not prefer any appeal against these Censures. This was explained by the appellant on pages 1 to 5 in his explanation dated 13.5.50 (item 3).

2. It is obvious that his work as Subedar was altogether unsatisfactory, and that for that reason and that he did not merit the promotion to the rank of the Subedar-Major" is unkind, and unjust for the following reasons:-

(a) The Deputy Inspector General of Police at the time of promoting the appellant as Subedar-Major

from 1-8-50 has already gone through entire records including these delinquencies, ignored them and promoted him.(b) The Commandant while awarding the Censures has not specified whether they would affect the appellant's continuation as Subedar-Major (in which case the delinquent would have preferred an appeal to higher authority immediately. The delinquent's silence was intended to be more for respect to the authority on account of non-seviority of such Censures according to revised rules)(c) Item No.1 of the subject matter of the warning Memo in question relates to the Censures in question for which the Inspector General of Police has finally concluded that the appellant may merely be warned.

Hence consideration of these Censures for Cessation of Probation as Subedar-Major is bad in Principle and contrary to rules.

8. Moreover, the appellant's increment as Subedar was postponed on the very same subject matter in P.R.89/51. This has been fully explained in the explanation and appeal submitted by the appellant.

9. The Inspector General's conclusion in the last sentence of para 3 that "It is futile for the appellant to argue that punishments were awarded for the faults committed by him prior to his promotion they cannot be taken into account in assessing his merits for promotion to the rank of Subedar-Major", is quite BEYOND the charge under dispute and ORDERS PASSED by the Dy.Inspector General THEREON. Whereas the charge and orders passed by the Dy. Inspector General of Police under appeal relate TO THE REVERSION FROM THE TANK OF SUBEDAR.-MAJOR. The Inspector General's conclusion that the appellant's unsatisfactory work AS SUBEDAR can be taken into account in assessing

merits FOR PROMOTION TO THE RANK OF SUBEDAR -MAJOR, is quite OUT OF PLACE at this stage, and has no RELATION-SHIP whatsoever TO THE CHARGE AND APPEAL. Hence the decision of the Inspector General of Police is invalid and unreasonable, and established THE FLAW in the disposal of the appeal.

10. The appellant begs to submit that in the face of the charges framed against him, and his explanations thereof, and finally the conclusions of Deputy Inspector General of Police and the Inspector General of Police, the appellant feels that he is WRONGED, and therefore, he humbly begs that the Government would kindly BESTOW GREATER ATTENTION to the manner in which TRIVAL charges were framed and when suited MAGNIFIED with an OBJECT of putting the appellant DOWN by all possible means, and sometimes INGENEOUSLY MISLEADING the higher authorities and SUITABLY obtaining ORDERS by OVERLAPING and REPEATING one charge on another, till the DISCOMFEATURE of the appellant is SUCCESSFULLY achieved.

11. The appellant contends that the spirit of orders enunciated in G.O.Ms.No. 4444 Home dated 20-11-51, and instructions issued there on in Memorandum No.137396 Police 11/50-11 Home Department dated 21.1.52 have not been followed in this case. Cessation of probation (from a higher category to a lower category) amounts to reduction. Statiturary rules requires that the delinquent has to be given a fair chance to defend himself and that he should be given an oral enquiry (M.P.S. & M.B.P.S.S. Discipline & appeal rules, 1950 para 3(b) Published in P.G. dated 14.4.51). The appellant should have also been given a final charge for final representation after the Dy.Inspector General came to provisional conclusion, that the Cessation of probation of the appellant was to be ceased. So there are these 2 fundamental defects in the case.

The appellant did represent in clear xxxxx terms in his explanation that he requested the Dy.Inspector General to give him an opportunity to represent his case in oral enquiry (last para page 7,para 1 on page 8,and para 2 on page 9) which has been flatly denied and more or less exparte orders ensued. The above facts were also mentioned in the appeal (para 1 page 3)of, to the Inspector General of Police which has been brushed aside.

13. The appellant, therefore, prays the Government to kindly call for the entire records and after perusing, pass orders duly cancelling the Proceedings of the Inspector General of Police, and render justice to the appellant for which he will be grateful and loyal.

Ballary:
Dated: 25-3-52

Yours most faithfully,
J. Narayanaswamy.

Home Department

Endorsement No. 56551 Ofdiv III/52-1 dated 8-4-52

Returned to the petitioner through the Inspector-General of Police for submission through the proper channel.

8-4-1952
Assistant Secretary to Government.

8.4.52

To

Sri J. Narayanaswamy,
ex-Sub-Maj., III Battalion S.A.R. (Mil), Bellary
through the Inspector-General of Police.

OFFICE OF THE INSPECTOR GENERAL OF POLICE
10 APR 1952
MADRAS

B1/1305/115/52

Foc 2141/A/PR/52 dated 14.4.52.

Forwarded.

N.S. Ramalingam
12.4.52
For Inspr. Genl of Police

Chief Office
Madras

To

10.4 12.4.52

Sri T. Narayanaswami.

Thro'

The Commandant

III Battalion

Special Armed Police

Bellary

C.no B1-115-52

Forwarded.

J.R. Rajendu
21/4/52

Commandant

3.S.A.P. unit. Bellary

17/4 17/4/52

Forwarded

1/5/52

Resubmitted through the Commandant

III Bn. S.A.P. Unit Bellary

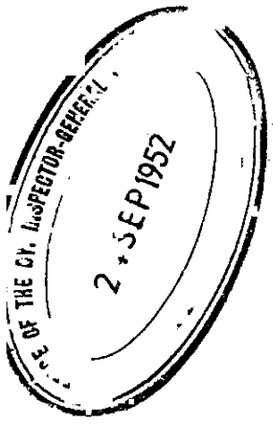
30/5/52.

Rem 90/APM/52. (1)

2933

C.No.241/A/52. PR

Office of the Commandant,
Special Armed Police Unit, Bellary,
Dated 15-9-1952.



Resubmitted to the Deputy Inspector General of Police, Special Armed Police Units, Madras.

This is a memorial from the dismissed Subedar Sri. J. Narayanaswami against the orders of the Deputy Inspector General of Police, S.A.P.Units ~~xxi~~ ceasing his probation as Subedar Major which has been confirmed by the Inspector General of Police on appeal.

1. The contention of the memorialist is not correct and it is not sustainable by facts as the remarks on the memorial will conclusively prove at the end.

2. It is incorrect to say that the memorialist was given 5 charges. He was given a memorandum by the Deputy Inspector General of Police, S.A.P.Units requiring him to show cause why his probation should not be ceased for unsatisfactory work. Instances of unsatisfactory work were given in the memorandum.

3. Calls for no remarks.

4. As already stated no charges were framed against the memorialist. Hence there is no meaning in saying that the Deputy Inspector General of Police "passed orders only on 2 charges eliminating the rest as irrelevant". The orders referred to by the memorialist is the proceedings Rc.No.211/G1/51, dated 16-6-51 of the Deputy Inspector General of Police wherein the Deputy Inspector General of Police passed orders ceasing the probation of the memorialist for unsatisfactory work after duly considering the explanation of the memorialist to the memo served on him to show cause why his probation should not be ceased.

5. No remarks.

6. No remarks.

7. The memorialist is not correct in saying that the warning given to him by the Inspector General of Police was based on the "sweeping adverse remarks" of the Commandant. There was no need for the Commandant to make sweeping remarks while he had ample material against the memorialist. The report of the District Superintendent of Police, Guntur sent in his D.O.C.No. 310/Camp/50, dated 6-5-1950 with its enclosures (copy enclosed) amply speaks to the dishonesty, inefficiency, bad relations with the fellow officials. The Commandant based his remarks after inspecting the Company of the delinquent (memorialist) and noting the inefficient way the memorialist was administering the Company. It is basing on the adverse report received from the District Superintendent of Police, Guntur and on the facts disclosed by the Inspection of the Company by the Commandant and on the two censures awarded to him that the Commandant had made his adverse remarks on the memorialist. (Vide Commandant's D.O. C.No.37/Camp/50, dt.13-5-50 and D.O.1898/G1/50, dt.17-5-50 of the Deputy Inspector General of Police, S.A.P.Units (copies enclosed.)

The two censures awarded to the memorialist which discredit his work in the lower post of Subedar certainly do not merit his promotion to the higher post of the Subedar Major. It was fortunate for the memorialist that he was promoted as Subedar Major by the Inspector General of Police in the usual course by virtue of his seniority without a reference to the

TJ 46 (2)

12

Commandant before the delinquencies for which he was awarded the censures in question came to light. It is futile to argue that the delinquencies which relate to the period prior to his promotion as subedar Major have "no relation or bearing with the duties and performances of his work as Subedar Major". They stand testimony to the fact that the memorialist did not deserve the promotion in the first place. There is no point in arguing that because he got the promotion before the delinquencies came to light, the delinquencies cannot be taken into consideration after his promotion.

The contention of the memorialist that the warnings were not based on concrete instances is not correct as already stated above. The warnings were communicated to him and his acknowledgment was obtained.

The memorialist did not request for particulars on which the report dated 15-9-50 was based as stated by him. Further the report dated 15-9-50 is a confidential one which he is not expected to know. What all he is expected to know was given to him in the shape of warnings which he acknowledged. If he wanted any further particulars it was upto him to ask for them which he did not. It is false to say that he asked for particulars and they were not given to him. There is nothing "unkind and unreasonable" as the memorialist says, in the Inspector General saying that "if the appellant had not received a reply to his request, it is open to him to have written to higher authorities or to remind the Commandant". The Commandant neither acknowled the receipt of the petition of the memorialist requesting for further particulars nor had he told him that he would refer the matter to the Inspector General of Police as stated by him. There was no infringement of Rules of any kind by which he is penalised as stated by the memorialist. He is penalised only for his own delinquencies.

The warning was given to the memorialist by the Inspector General of Police with a view that the memorialist would rectify himself. It did not have the desired effect on the memorialist. The memorialist committed delinquencies which did not justify his continuance on probation. Hence he was served with a memo to show cause why his probation should not be ceased. There was nothing wrong to refer in his memo to the warning administered by the Inspector General of Police and it does not amount to reopening the same subject which was finally closed by the Inspector General of Police. If the warning had had the desired effect on the memorialist and if he has not committed any delinquencies the matter would have certainly ended there. But the delinquencies of the memorialist necessitated further action.

There is nothing wrong in principle and nothing contrary to rule 4 of Madras Police Subordinate Services and Malabar Special Police Subordinate Services, Discipline and appeal rules referred to bythe memorialist. The memorialist evidently means that when the Inspector General of Police who is a higher authority to the Deputy Inspector General of Police and Commandant warned him there was no jurisdiction for the Deputy Inspector General of Police or Commandant under the said rule to cease his probation. As already mentioned above the probation of the memorialist was not ceased on account of the warning administered by the Inspector General of Police, but on account of other delinquencies.

(4)

14

is unnecessary to follow the elaborate and formal procedure required in the case of the punishments of dismissal, removal and reduction. Neither the framing of a charge nor the recording of the evidence is necessary. All that is necessary is to apprise the probationer of the action proposed to be taken against him and the reasons therefor and to allow him a reasonable opportunity to make any representation he might desire. This was done in the case of the memorialist.

A memo to show cause why his probation should not be ceased for unsatisfactory work evidence there in was served on the memorialist and his explanation was obtained. It was duly considered and orders passed. Therefore there was nothing irregular in the procedure followed and it is incorrect on the part of the memorialist to say that more or less exparte orders were issued.

13. The relevant records are enclosed.

This memorial was kept pending with me awaiting the return of the personal file of the memorialist which was ubmitted in connection with his appeal against the orders of dismissal on 25-4-52 to the ~~Deputy~~ Inspector General of Police. As a reminder is since received for the submission of the memorial with my remarks it is accordingly submitted without enclosing the personal file. Cessation of probation is not a specific punishment. It is therefore doubtful if the memorialist can approach the Government with this memorial.

In conclusion I invite attention to the following records regarding the memorialists malpractice while he was in Guntur and Nalgonda districts.

1. No 37/Camp/50-D1. 13-5-50
2. No 24/Camp/51 DT. 15-6-51.
3. No 35/Camp/51 DT. 31-7-51. and Correspondence resting with your letter 1639/Genl/51 dt. 5-1-52.

COMMANDANT,
Special Armed Police Unit, Bellary.

SR/18.9.

Cyc 90/Appeal/52 dated 24.9.1952 forwarded to the Inspector General of Police Madras.

Deputy Inspector-General of Police,
Special Armed Police,
Madras.

It is true that the delinquencies in P.Rs.203/50 and 115/50 for which the memorialist was awarded two censures were noticed before the memorialist was promoted as Subedar Major but his promotion as Subedar Major which he got by virtue of his seniority the usual course by the orders of the Inspector General of Police cannot be stopped by the Commandant. It is unfair to stop the promotion on account of charges which are yet to be established. By the promotion it does not mean that when the charges are established subsequently they should not affect the promotion already made.

The explanations of the memorialist to the charges in P.Rs.115/50 and 203/50 referred to by him are fully dealt with in the respective minutes copies of which are enclosed. They fully establish the charges against the memorialist. If the memorialist felt that justice was not done to him he ought to have appealed against the orders to the higher authorities. The reasons for his failure to do it are not convincing. His observation that "consideration of these censures for cessation of probation as Subedar Major is bad in principle and contrary to rules" has no meaning.

8. The memorialist's increment was withheld for unsatisfactory work as contemplated in P.S.O.97. When the unsatisfactory work was established by the punishments he got during the incremental period there was nothing irregular in withholding the increment.

9. It may be out of place to consider the unsatisfactory work as Subedar in assessing the merits for promotion to the rank of Subedar Major at a later stage, provided that the unsatisfactory work as Subedar was duly taken into consideration before the promotion was ordered. In the present case the delinquencies of the memorialist committed while he was a Subedar were established only after he was promoted as Subedar Major and they were considered to demerit his promotion. Therefore it was not out of place to consider the suitability or otherwise of the memorialist to continue as Subedar Major on account of these delinquencie and they have every "relationship to the charge and appeal" in the words of the memorialist. Thus there is no flaw in the disposal of the appeal by the Inspector General of Police as contented by the memorialist.

10. The memorialist is more imaginary than real in his observations. There is no motive for his superiors to wrong him.

11. The contention of the memorialist that as per G.O.4444, Home, dated 20-11-51 and Govt.Memorandum No. 137396, Police.II/50-11, dated 21-1-52 (Home Department) that the proceedure contemplated for reduction should be followed in the case of cessation of probation and that oral enquiry should be conducted is wrong and either incorrect understanding or melacious misinterpretation of orders.

The G.Os. referred to do not indicate that oral enquiry is necessary in the case of termination of probation and it is made clear by para 2 of Govt.Memorandum No. 214574-Police.II/51-3, dt.4-2-52 (~~copy enclosed~~) that "it

15 Home Dept

G.O.Rt.No. 3376 dated 8.11.52

Narayanaswamy, Sri. T; Ex-~~Sub-Inspector~~ Retrenched Major, S.A.P. unit, Bellary - Cessation of Probation ~~as Sub-Major~~/- Restoration - petition to Government ~~for Cancellation of the order~~ - Rejected

Read:

From the I.G. of Police, R.C.No.673/A/PR/5 dated Nil October 1952.

ORDER

The petitioner should be informed that the Government decline to interfere.

6.11.52

7.11.52

To

The I.G. of Police, Madras (3 copies)

6.11.52

Cno. 196669 Poll/52

HOME DEPARTMENT

NARAYANASWAMY, Sri J, Ex-Sub-Major, S.A.P. Unit, Bellary - Cessation of probation as Sub-Major - Petition to Government for cancellation of the order.

From the I.G. of Police, R.C.No. 673/A/PR/52 dated Nil October 1952.

Sri J. Narayanaswamy, Ex-Sub-Major, S.A.P. Unit, Bellary has submitted a petition addressed to the Secretary to Government, Home Department requesting cancellation of orders terminating his probation as Subedar-Major. The D.I.G. of Police, S.A.P. terminated the probation of the petitioner for bad and unsatisfactory work during his probation period. The order of the D.I.G. of Police, S.A.P. ceasing his probation is at p. 71 c.f. The petitioner's appeal against the orders of the D.I.G. of Police, S.A.P. was turned down by the I.G. of Police -- vide pp. 27-28 c.f. A copy of the petitioner's defaulter-sheet is at pp. 73-74 c.f. ~~The remarks of the Commandant, S.A.P. Unit, Bellary~~

2. The remarks of the Commandant, S.A.P. Unit, Bellary on the various paras of the petitions are at pp. 45-48 c.f. The I.G. of Police has stated that the petitioner was subsequently dismissed from service by the D.I.G. of Police, S.A.P. and that his appeal against dismissal is under his consideration.

~~It is submitted that the petitioner was subsequently dismissed from service by the D.I.G. of Police, S.A.P., Madras and the petitioner's appeal against dismissal is under the I.G.'s consideration.~~

As no appeal lies to Government in the case, the petition is liable to summary rejection under instruction XVII(7) of the Instructions for the submission of petitions to Government. For orders.

May be rejected.

A draft order is submitted for approval

2...

(Issued as GO.M.No. 3376, Home, dated 8.11.52) Rd

By Registered Post/Ack.Due.

From: Ex.Subedar.-Major.J.Narayanaswami,
of Bellary, S.A.P.Unit (Appellant)
No.287 Jagannadha Temple Street,
C.B. Bellary.

To

The Secretary to the Government,
Home Department, Fort. St.George,
Madras.

Thro:-

The Dy.Inspr.-Genl. of Police, S.A.P.Units
&
The Inspr.-Genl. of Police, Madras.

Sir,

Sub: Cessation of Probation of Subedar.-Major. J.Narayanaswami of Bellary S.A.P.Units.-Further supplemental facts.-Submitted.-

Ref: 1. Rc.No.211.Genl.51.1. of the D.I.G. S.A.P.Units, Madras.
2. Foc.654.A.PR.51. of the Inspr.-Genl. of Police, Madras.
3. G.O.No.3672 (Public Services) dated 18.12.1943.
4. Sec. 240 (3) Govt. of India Act 1935.
5. Article 311 (2) Constitution of India.
6. G.O.No.2554, Home Department, dated 31.7.1945.
7. .do.3988, Home department, dated 27.X.1945.
8. .do.4444, Home department dated 20.11.1951.
9. P.S.O.No. 90.Vol.I. published in P.G. on 16.12.1950.
10. Memo. of Home Depart.No.137396.Police.II.50.1. dated 21.1.1952.
(11) Memorial dated 26.3.1952 submitted to the Government by the Appellant.

The appellant in continuation of his Memorial dated 26.3.1952 referred to above item (11) begs to submit the following supplemental facts for favourable consideration.

The Inspr.-Genl. of Police in Para 2 of Chief Office Cr.Memo. dated 10.1.1952 has been pleased to give the following directions to be followed regarding the award of the punishment of termination of Probation that "in view of the rulings in G.O.No.3672, referred to above, when a charge for termination of Probation is given by the appointing authority there is no need for such authority to give a Probationer a fresh opportunity of showing cause, after the appointing authority obtains the Probationer's explanation to the charge".- Whereas, it is set out in clear terms" What is the reasonable opportunity and at what stage it should be given", in lall's case by the Privy Council enunciated in Madras Law Journal 1948 (2) Pages 55 & 60 & 61 (referred to in the G.O.No.4444) that "merely taking explanation on a charge given at preliminary stage does not indicate that there has been an enquiry into the truth or otherwise of the same, and that, the charges at this stage are unproved and the suggested punishment is only hypothetical, and until a definite conclusion has been come to on the charges and the actual punishment to follow is provisionally determined on it, it cannot be said that the delinquent is aware of the resultant punishment is about to follow and that, the stage for giving the delinquent a reasonable opportunity has been reached",.

It is presumably in view of this ruling and that of Art.311 (2) of the Constitution referred to in G.O.No.4444, Home, dated 20.11.51 the Government is pleased to give clear directions in item (10) referred to above that "any opportunity given before a provisional decision is taken by competant authority will not satisfy the requirements",.

Besides, in Police Standing Order 90 (2) (a) & (c) published in Police Gazette on 16.12.1950 it is definitely said that "the Officer to whom a report is sent for a disciplinary action, shall make such preliminary investigation as to establish the Prima Facie correctness of the facts alleged in the report and if that Officer, after the said enquiry, comes to provisional decision that there is Prima Facie

18

case for proceeding against the delinquent, a specific charge should then be framed in the light of the evidence available and that the charges so given should be couched in clear terms avoiding any vagueness.

In view of the aforesaid rulings, it appears, the directions of the Inspr.-Genl. of Police stated above are against the spirit with which the rulings are given.

The appellant submits that the Memo.No.Rc.211.Genl.51.1. dated 8.2.1951 was issued to the appellant by the Dy.Inspr.-Genl. of Police, S.A.P.Units, Madras, on a report received from the Commandant S.A.P.Unit, Bellary, in his No.7.Camp.51. dated 1.2.51 based on punishments (Censures) awarded for some alleged un.-satisfactory work prior to the appellant's promotion "PAST RECORDS" and some allegations pending enquiry by the Commandant, but not on any fresh incidents. Thus the Memo. itself is quite contrary to G.O.No.2554 (Item No.6) referred to above) and Police Standing Orde No.90 (8) (a) Vol.I. Again the Dy.Inspr.-Genl. on receipt of the appellant's explanation on the said Memo, has straight away passed orders terminating the probation as Subedar.-Major considering only the past records (Item 1 referred to above) without following the just procedure as contemplated in the rulings stated above. Moreover the proceedings are defective in accordance with Government Order No.3988 (Item No. 7 referred to above) and Police Standing Order No. 90 (9) Vol. I.

The appellant, therefore, humbly requests that these facts may also kindly be taken into consideration while disposing the Memorial submitted by the Appellant to the Government.

Bellary,
3rd November 19 5 2.

Yours faithfully.

J N Swamy

Copy submitted to the Secretary to Government, Home Department, Fort. St. George, Madras, direct to save delay.

Home (Police) Dept.

Please see the further petition from J.N. Swamy above. A copy of it ~~Action will be taken on the original petition~~ was sent to the proper channel. Action will be taken on it when received ~~submitted through proper channel~~. This may be lodged and added to papers at ®

B 10.11.52 LRW 10.11.52

13.11.52

By Registered Post/Ack.Due.

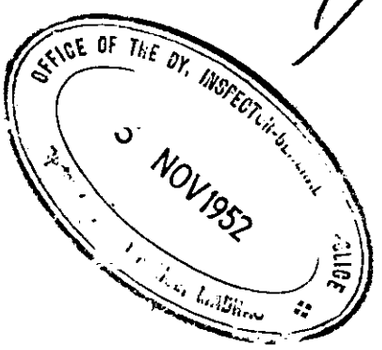
From: Ex.Subedar.-Major.J.Narayanaswami,
of Bellary, S.A.P.Unit (Appellant)
No.287 Jagannadha Temple Street,
C.B. Bellary.

To

The Secretary to the Government,
Home Department, Fort. St.George,
Madras.

Trho

The Dy.Inspr.-Genl. of Police, S.A.P.Units
&
The Inspr.-Genl. of Police, Madras.



Sir,

Sub: Cessation of Probation of Subedar.-Major. J.Naravanaswami of Bellary S.A.P.Units.-Further supplemental facts.-Submitted.-

Ref: 1. Rc.No.211.Genl.51.1. of the D.I.G. S.A.P.Units, Madras.
2. Foc.654.A.PR.51. of the Inspr.-Genl. of Police, Madras.
3. G.O.No.3672 (Public Services) dated 18.12.1943.
4. Sec. 240 (3) Govt. of India Act 1935.
5. Article 311 (2) Constitution of India.
6. G.O.No.2554, Home Department, dated 31.7.1945.
7. .do.3988, Home department, dated 27.X.1945.
8. .do.4444, Home department dated 20.11.1951.
9. P.S.O.No. 90.Vol.I. published in P.G. on 16.12.1950.
10. Memo. of Home Depart.No.137396.Police.II.50.II. dated 21.1.1952.
(11) Memorial dated 26.3.1952 submitted to the Government by the Appellant.

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1) The appellant in continuation of his Memorial dated 26.3.1952 referred to above item (11) begs to submit the following supplemental facts for favourable consideration.

2) The Inspr.-Genl. of Police in Para 2 of Chief Office Cr.Memo. dated 10.1.1952 has been pleased to give the following directions to be followed regarding the award of the punishment of termination of Probation that "in view of the rulings in G.O.No.3672, referred to above, when a charge for termination of Probation is given by the appointing authority, there is no need for such authority to give a Probationer a fresh opportunity of showing cause, after the appointing authority obtains the Probationer's explanation to the charge".- Whereas, it is set out in clear terms" What is the reasonable opportunity and at what stage it should be given", in lall's case by the Privy Council enunciated in Madras Law Journal 1948 (2) Page 55 & 60 & 61 (referred to in the G.O.No.4444) that "merely taking explanation on a charge given at preliminary stage does not indicat that there has been an enquiry into the truth or otherwise of the same, and that, the charges at this stage are unproved and the sugge punishment is only hypothetical, and until a definite conclusion ha been come to on the charges and the actual punishment to follow i provisionally determined on it, it cannot be said that the delin. quent is aware of the resultant punishment is about to follow, an (2) that the stage for giving the delinquent a reasonable opportunit been reached",.

3) It is presumably, in view of this ruling and that of Art.3 of the Constitution referred to in G.O.No.4444, Home, dated 2 the Government is pleased to give clear directions in item (1 referred to above that "any opportunity given before a provis decision is taken by competant authority will not satisfy the quirements",.

4) Besides, in Police Standing Order 90 (2) (a) & (c) publ Police Gazette on 16.12.1950 it is definitely said that "th to whom a report is sent for a disciplinary action, shall ma preliminary investigation as to establish the Prima Facie co of the facts alleged in the report, and if that Officer, afte said enquiry, comes to provisional decision that there is

ASSISTANT SECRETARY TO GOVERNMENT
30 NOV
HOME DEPARTMENT

case for proceeding against the delinquent, a specific charge should then be framed in the light of the evidence available and that the charges so given should be couched in clear terms avoiding any vagueness.

5) In view of the aforesaid rulings, it appears, the directions of the Inspr.-Genl. of Police stated above are against the spirit with which the rulings are given.

6) The appellant submits that the Memo.No.Rc.211.Genl.51.1. dated 8.2.1951 was issued to the appellant by the Dy.Inspr.-Genl. of Police, S.A.P.Units, Madras, on a report received from the Commandant S.A.P.Unit, Bellary, in his No.7.Camp.51. dated 1.2.51 based on punishments (Censures) awarded for some alleged un-satisfactory work prior to the appellant's promotion "PAST RECORDS" and some allegations pending enquiry by the Commandant, but not on any fresh incidents. Thus the Memo. itself is quite contrary to G.O.No.2554 (Item No.6) referred to above) and Police Standing Orde No.90 (8) (a) Vol.I. Again the Dy.Inspr.-Genl. on receipt of the appellant's explanation on the said Memo, has straight away passed orders terminating the probation as Subedar.-Major considering only the past records (Item 1 referred to above) without following the just procedure as contemplated in the rulings stated above. Moreover the proceedings are defective in accordance with Government Order No.3988 (Item No. 7 referred to above) and Police Standing Order No. 90 (9) Vol. I.

7) The appellant, therefore, humbly requests that these facts may also kindly be taken into consideration while disposing the Memorial submitted by the Appellant to the Government.

Bellary,
3rd November 19 5 2.

Yours faithfully,
J. Narasimhulu

Copy submitted to the Secretary to Government, Home Department, Fort. St. George, Madras, direct to save delay.

Foc.No.102/SAP/52

Forwarded to the Secretary to the Government of Madras, Home Department.

2. The original petition, dated 26-3-1952 referred to in the petition was disposed of in G.O. Rt.No.3376, Home, dated 8-11-1952.

Office of the
Inspr.-Genl. of Police,
P.B. No. 601, Madras-4,
Dated 28 Novr. 1952.

for Inspr.-Genl. of Police.

To
The Secretary to the
Govt. of Madras,
Home Department.

[redacted]gns/24-11.

F 22

ASSISTANT SECRETARY TO GOVERNMENT
30 NOV
HOME DEPARTMENT

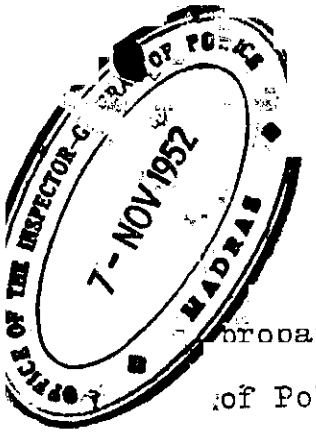
Home (Police) Dept

Please see the petition at pp1-2 ante from Sri. J. Navaneetha Krishnan ex-subedar-Major, S.A.P., Bellary and the remarks of the D.I.G. of Police, Railways and C.I.D. thereon at p3 ante. The petition at pp1-2 ante with confirmation of the petition at pp3-4 of (S) which orders have been issued in the G.O. at p15 c.f. (S) has been noted. In view of the fact that the original petition has been rejected and also in view of the remarks of the D.I.G. of Police at p3 ante, no action seems necessary on this petition. It may be lodged and added to the papers at (S). (The I.G. of Police reported that the petitioner was subsequently dismissed from service by the ex. D.I.G. para 4/p 101 of (S) vide his R. 23.12.52 of Police, S.A.P.)

23.12.52

23.12.52

Lodge



C.No. 134/App1/52 Dated: 7 Nov. '52.

Forwarded to the Inspector-General of Police, Madras.

2. Para 1, 2 & 3:- This was a case of cessation of probation. It was only after the Deputy Inspector-General of Police, Special Armed Police, (appointing authority) came to the provisional conclusion on the report of the Commandant that the petitioner was unfit to be a Subedar Major, a memo asking him to show cause why his probation should not be ceased, was served on him.

3. Para 4.:- The show cause memorandum was clear, and did not contain any ambiguities as stated by the petitioner.

4. Para.5.:- The Inspector-General's Memo (no number was given by the petitioner) is not incorrect.

5. Para.6.:- Vide my remarks on paragraphs 1 to 3 above. The point of consideration of past records has been discussed in Sub-paragraph of para 3 of the Inspector-General's proceedings No.FOC.654-A/PR/51, dated 10-1-52. Accrual of statutary punishments by a propationer certainly speak of his unsuitability for being continued in that post. There was no irregularity in the procedure as alleged.

6. Para.7.:- No remarks.

Dy.Inspr.-Genl. of Police,
Rlys. & CID. Madras. (SA.)

To

The Inspector-General of Police, Madras.4.

Krs.6/11.